



STATE OF MONTANA REQUEST FOR PROPOSAL (RFP) FOR INFORMATION TECHNOLOGY

RFP Number:
07-1236L

RFP Title:
Food & Consumer Safety Licensing System

RFP Response Due Date and Time:
April 26, 2007
2 p.m., Local Time

Number of Pages: 37

ISSUING AGENCY INFORMATION

Procurement Officer:
Gwen Ungerman

Issue Date:
04/06/2007

Purchasing Unit
Department of Public Health and Human
Services
Room 8 Sanders Building
111 North Sanders
Helena MT 59620

Phone: (406) 444-0546
Fax: (406) 444-2529
TTY Users, Dial 711

Website: <http://www.mt.gov/doa/gsd>

INSTRUCTIONS TO OFFERORS

Return Proposal to:

Purchasing Unit
Department of Public Health and Human
Services
Room 8 Sanders Building
111 North Sanders
Helena MT 59620

Mark Face of Envelope/Package:

RFP Number: 07-1236L
RFP Response Due Date: April 26, 2007

Special Instructions:

IMPORTANT: SEE STANDARD TERMS AND CONDITIONS

OFFERORS MUST COMPLETE THE FOLLOWING

Offeror Name/Address:

Authorized Offeror Signatory:

(Please print name and sign in ink)

Offeror Phone Number:

Offeror FAX Number:

Offeror E-mail Address:

OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE

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OFFEROR'S RFP CHECKLIST

The 10 Most Critical Things to Keep in Mind When Responding to an RFP for the State of Montana

1. _____ **Read the entire document.** Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; funding amount and source; contract requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. _____ **Note the procurement officer's name, address, phone numbers and e-mail address.** This is the only person you are allowed to communicate with regarding the RFP and is an excellent source of information for any questions you may have.
3. _____ **Attend the pre-proposal conference** if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the State of any ambiguities, inconsistencies, or errors in the RFP.
4. _____ **Take advantage of the "question and answer" period.** Submit your questions to the procurement officer by the due date listed in the Schedule of Events and view the answers given in the formal "addenda" issued for the RFP. All addenda issued for an RFP are posted on the State's website and will include all questions asked and answered concerning the RFP.
5. _____ **Follow the format required in the RFP** when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. _____ **Provide complete answers/descriptions.** Read and answer **all** questions and requirements. Don't assume the State or evaluator/evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the State. The proposals are evaluated based solely on the information and materials provided in your response.
7. _____ **Use the forms provided**, i.e., cover page, sample budget form, certification forms, etc.
8. _____ **Check the State's website for RFP addenda.** Before submitting your response, check the State's website at <http://www.mt.gov/doa/gsd/osbs/default.asp> to see whether any addenda were issued for the RFP. If so, you must submit a signed cover sheet for each addendum issued along with your RFP response.
9. _____ **Review and read the RFP document again** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluator/evaluation committee members and will be used to score your response.
10. _____ **Submit your response on time.** Note all the dates and times listed in the Schedule of Events and within the document, and be sure to submit all required items on time. Late proposal responses are **never** accepted.

This checklist is provided for assistance only and should not be submitted with Offeror's Response.

SCHEDULE OF EVENTS

EVENT

DATE

RFP Issue Date	04/06/2007
Deadline for Receipt of Written Questions	04/12/2007
Deadline for Posting of Written Responses to the State's Website	04/17/2007
RFP Response Due Date	04/26/2007
Intended Date for Contract Award	05/01/2007

SECTION 1: PROJECT OVERVIEW AND INSTRUCTIONS

1.0 PROJECT OVERVIEW

The STATE OF MONTANA, Department of Public Health and Human Services, Food and Consumer Safety Section, (hereinafter referred to as "the State") is seeking a contractor to provide and maintain a web-based platform from which the State will execute and manage the activities integral to its fiscal programs for the licensure of Food Establishments, Public Accommodations, Swimming Pools, and Tattoo and Body Piercing Establishments. The State will only consider existing Commercial Off The Shelf (COTS) Products. A more complete description of the supplies and/or services sought for this project is provided in Section 3, Scope of Project. Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein.

1.1 CONTRACT TERM

The contract term is for a period of approximately 6 months beginning approximately May 1, 2007 and ending October 31, 2007. This contract term will include approximately three months of installation and modifications and a nine-month warranty period. After the term of this contract, the State may enter into a maintenance and support agreement with the successful Offeror. The terms of any subsequent agreement will be negotiated at the expiration of any contract resulting from this RFP.

1.2 SINGLE POINT OF CONTACT

From the date this Request for Proposal (RFP) is issued until an offeror is selected and the selection is announced by the procurement officer, **offerors are not allowed to communicate with any state staff or officials regarding this procurement, except at the direction of** Gretchen Bingman, the procurement officer in charge of the solicitation. Any unauthorized contact may disqualify the offeror from further consideration. Contact information for the single point of contact is as follows:

Procurement Officer:	Gwen Ungerman
Address:	Purchasing Unit Department of Public Health and Human Services Room 8 Sanders Building 111 North Sanders Helena MT 59620
Telephone Number:	(406) 444-0546
Fax Number:	(406) 444-7358
E-mail Address:	Gungerman@mt.gov

1.3 REQUIRED REVIEW

1.3.1 Review RFP. Offerors should carefully review the instructions; mandatory requirements, specifications, standard terms and conditions, and contract set out in this RFP and promptly notify the procurement officer identified above in writing or via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFP. This should include any terms or requirements within the RFP that either preclude the offeror from responding to the RFP or add unnecessary cost. This notification must be accompanied by an explanation and suggested modification and be received by the deadline for receipt of written or e-mailed inquiries set forth below. The State will make any final determination of changes to the RFP.

1.3.2 Form of Questions. Offerors with questions or requiring clarification or interpretation of any section within this RFP must address these questions in writing or via e-mail to the procurement officer referenced above on or before **APRIL 12, 2007**. Each question must provide clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

1.3.3 State's Response. The State will provide an official written response by **APRIL 17, 2007** by 5:00 p.m., to all questions received by **APRIL 12, 2007**. The State's response will be by formal written addendum. Any other form of interpretation, correction, or change to this RFP will not be binding upon the State. Any formal written addendum will be posted on the State's website alongside the posting of the RFP at <http://www.mt.gov/doa/gsd/osbs/default.asp> by the close of business on the date listed. **Offerors must sign and return with their RFP response an Acknowledgment of Addendum for any addendum issued.**

1.4 GENERAL REQUIREMENTS

1.4.1 Acceptance of Standard Terms and Conditions/Contract. By submitting a response to this RFP, offeror agrees to acceptance of the standard terms and conditions and contract as set out in Appendices A and B of this RFP. Much of the language included in the standard terms and conditions and contract reflects requirements of Montana law. Requests for additions or exceptions to the standard terms and conditions, contract terms, including any necessary licenses, or any added provisions must be submitted to the procurement officer referenced above by the date for receipt of written/e-mailed questions and must be accompanied by an explanation of why the exception is being sought and what specific effect it will have on the offeror's ability to respond to the RFP or perform the contract. The State reserves the right to address non-material requests for exceptions with the highest scoring offeror during contract negotiation. Any material exceptions requested and granted to the standard terms and conditions and contract language will be addressed in any formal written addendum issued for this RFP and will apply to all offerors submitting a response to this RFP. The State will make any final determination of changes to the standard terms and conditions and/or contract.

1.4.2 Resulting Contract. This RFP and any addenda, the offeror's RFP response, including any amendments, a best and final offer, and any clarification question responses shall be included in any resulting contract. The State's contract, attached as Appendix B, contains the contract terms and conditions which will form the basis of any contract between the State and the highest scoring offeror. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by the State, will govern in the same order of precedence as listed in the contract.

1.4.3 Mandatory Requirements. To be eligible for consideration, an offeror ***must*** meet the intent of all mandatory requirements. The State will determine whether an offeror's RFP response complies with the intent of the requirements. RFP responses that do not meet the full intent of all requirements listed in this RFP may be subject to point reductions during the evaluation process or may be deemed non-responsive.

1.4.4 Understanding of Specifications and Requirements. By submitting a response to this RFP, offeror agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

1.4.5 Prime Contractor/Subcontractors. The highest scoring offeror will be the prime contractor if a contract is awarded and shall be responsible, in total, for all work of any subcontractors. All subcontractors, if any, must be listed in the proposal. The State reserves the right to approve all subcontractors. The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this document or any contract documents created as a result of any contract awards derived from this RFP shall create any contractual relationships between any subcontractor and the State.

1.4.6 Offeror's Signature. The proposals must be signed in ink by an individual authorized to legally bind the business submitting the proposal. The offeror's signature on a proposal in response to this RFP guarantees that the offer has been established without collusion and without effort to preclude the State of Montana from obtaining the best possible supply or service. Proof of authority of the person signing the RFP response must be furnished upon request.

1.4.7 Offer in Effect for 120 Days. A proposal may not be modified, withdrawn or canceled by the offeror for a 120-day period following the deadline for proposal submission as defined in the Schedule of Events, or receipt of best and final offer, if required, and offeror so agrees in submitting the proposal.

1.5 SUBMITTING A PROPOSAL

1.5.1 Organization of Proposal. Offerors must organize their proposal into sections that follow the format of this RFP, with tabs separating each section. A point-by-point response to all numbered sections, subsections, and appendices is required. If no explanation or clarification is required in the offeror's response to a specific subsection, the offeror shall indicate so in the point-by-point response or utilize a blanket response for the entire section with the following statement:

"(Offeror's Name)" understands and will comply.

1.5.2 Failure to Comply with Instructions. Offerors failing to comply with these instructions may be subject to point deductions. The State may also choose to not evaluate, may deem non-responsive, and/or may disqualify from further consideration any proposals that do not follow this RFP format, are difficult to understand, are difficult to read, or are missing any requested information.

1.5.3 Multiple Proposals. Offerors may, at their option, submit multiple proposals, in which case each proposal shall be evaluated as a separate document.

1.5.4 Copies Required and Deadline for Receipt of Proposals. Offerors must submit **one original proposal and eight copies** to the State Procurement Bureau. In addition, offerors must submit one electronic copy of the proposal, preferably in PDF format, on compact disk. Offerors unable to provide an electronic copy of the proposal in PDF format must provide it in Word or text format. **PROPOSALS MUST BE SEALED AND LABELED ON THE OUTSIDE OF THE PACKAGE** to clearly indicate that they are in response to RFP #07-1236L. ***Proposals must be received at the receptionist's desk of the DPHHS Purchasing Unit prior to 2:00 p.m., local time, APRIL 26, 2007. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.***

1.5.5 Late Proposals. ***Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration.*** It shall be the offeror's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late proposals will not be opened and may be returned to the offeror at the expense of the offeror or destroyed if requested.

1.6 COST OF PREPARING A PROPOSAL

1.6.1 State Not Responsible for Preparation Costs. The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the State are entirely the responsibility of the offeror. The State is not liable for any expense incurred by the offeror in the preparation and presentation of their proposal or any other costs incurred by the offeror prior to execution of a contract.

1.6.2 All Timely Submitted Materials Become State Property. All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which

would further define or expand any contractual relationship between the State and offeror resulting from this RFP process.

SECTION 2: RFP STANDARD INFORMATION

2.0 AUTHORITY

This RFP is issued under the authority of section 18-4-304, MCA (Montana Code Annotated) and ARM 2.5.602 (Administrative Rules of Montana). The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. No other evaluation criteria, other than as outlined in the RFP, will be used.

2.1 OFFEROR COMPETITION

The State encourages free and open competition among offerors. Whenever possible, the State will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy the State's need to procure technically sound, cost-effective services and supplies.

2.2 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION

2.2.1 Public Information. All information received in response to this RFP, including copyrighted material, is deemed public information and will be made available for public viewing and copying shortly after the time for receipt of proposals has passed with the following three exceptions: (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the State; and (3) other constitutional protections. See Mont. Code Ann. § 18-4-304.

2.2.2 Procurement Officer Review of Proposals. Upon opening the proposals received in response to this RFP, the procurement officer in charge of the solicitation will review the proposals and separate out any information that meets the referenced exceptions in Section 2.2.1 above, providing the following conditions have been met:

- Confidential information is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.
- An affidavit from an offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, is attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret Confidentiality" form in requesting the trade secret claim. This affidavit form is available on the General Services Division's website at: <http://www.mt.gov/doa/gsd/procurement/forms.asp> or by calling (406) 444-2575.

Information separated out under this process will be available for review only by the procurement officer, the evaluator/evaluation committee members, and limited other designees. Offerors must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in the event of a "right to know" (open records) request from another party.

2.3 CLASSIFICATION AND EVALUATION OF PROPOSALS

2.3.1 Initial Classification of Proposals as Responsive or Nonresponsive. All proposals will initially be classified as either "responsive" or "nonresponsive," in accordance with ARM 2.5.602. Proposals may be found nonresponsive at any time during the procurement process if any of the required information is not provided; the submitted price is found to be excessive or inadequate as measured by criteria stated in the

RFP; or the proposal is not within the plans and specifications described and required in the RFP. If a proposal is found to be nonresponsive, it will not be considered further.

2.3.2 Determination of Responsibility. The procurement officer will determine whether an offeror has met the standards of responsibility in accordance with ARM 2.5.407. Such a determination may be made at any time during the procurement process if information surfaces that would result in a determination of nonresponsibility. If an offeror is found nonresponsive, the determination must be in writing, made a part of the procurement file and mailed to the affected offeror.

2.3.3 Evaluation of Proposals. An evaluator/evaluation committee will evaluate the remaining proposals and recommend whether to award the contract to the highest scoring offeror or, if necessary, to seek discussion/negotiation or a best and final offer in order to determine the highest scoring offeror. All responsive proposals will be evaluated based on stated evaluation criteria. In scoring against stated criteria, the State may consider such factors as accepted industry standards and a comparative evaluation of all other qualified RFP responses in terms of differing price, quality, and contractual factors. These scores will be used to determine the most advantageous offering to the State. If an evaluation committee meets to deliberate and evaluate the proposals, the public may attend and observe the evaluation committee deliberations.

2.3.4 Completeness of Proposals. Selection and award will be based on the offeror's proposal and other items outlined in this RFP. Submitted responses may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested. Information or materials presented by offerors outside the formal response or subsequent discussion/negotiation or "best and final offer," if requested, will not be considered, will have no bearing on any award, and may result in the offeror being disqualified from further consideration.

2.3.5 Achieve Passing Score. Any proposal that fails to achieve 70% of the total available points for Section 3 will be eliminated from further consideration.

2.3.6 Opportunity for Discussion/Negotiation and/or Oral Presentation/Product Demonstration. After receipt of all proposals and prior to the determination of the award, the State may initiate discussions with one or more offerors should clarification or negotiation be necessary. Offerors may also be required to make an oral presentation and/or product demonstration to clarify their RFP response or to further define their offer. In either case, offerors should be prepared to send qualified personnel to Helena, Montana, to discuss technical and contractual aspects of the proposal. Oral presentations and product demonstrations, if requested, shall be at the offeror's expense.

2.3.7 Best and Final Offer. The "Best and Final Offer" is an option available to the State under the RFP process, which permits the State to request a "best and final offer" from one or more offerors if additional information is required to make a final decision. Offerors may be contacted asking that they submit their "best and final offer," which must include any and all discussed and/or negotiated changes. The State reserves the right to request a "best and final offer" for this RFP, if any, based on price/cost alone.

2.3.8 Evaluator/Evaluation Committee Recommendation for Contract Award. The evaluator/evaluation committee will provide a written recommendation for contract award to the procurement officer that contains the scores, justification, and rationale for the decision. The procurement officer will review the recommendation to ensure its compliance with the RFP process and criteria before concurring in the evaluator's/evaluation committee's recommendation.

2.3.9 Request for Documents Notice. Upon concurrence with the evaluator's/evaluation committee's recommendation for contract award, the procurement officer will issue a "Request for Documents Notice" to the highest scoring offeror to obtain the required insurance documents, contract performance security, an electronic copy of any requested material, i.e., response to clarification questions and/or Best and Final Offer, and any other necessary documents. Receipt of the "Request for Documents Notice" does not

constitute a contract and no work may begin until a contract signed by all parties is in place. The procurement officer will notify all other offerors of the State's intent to begin contract negotiation with the highest scoring offeror.

2.3.10 Contract Negotiation. Upon issuance of the "Request for Documents Notice," the procurement officer and/or state agency representatives may begin contract negotiation with the responsive and responsible offeror whose proposal achieves the highest score and is, therefore, the most advantageous to the State. If contract negotiation is unsuccessful or the highest scoring offeror fails to provide necessary documents or information in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations and begin negotiations with the next highest scoring offeror.

2.3.11 Contract Award. Contract award, if any, will be made to the highest scoring offeror who provides all required documents and successfully completes contract negotiation. A formal contract utilizing the Contract attached as Appendix B and incorporating the Standard Terms and Conditions attached as Appendix A will be executed by all parties.

2.4 STATE'S RIGHTS RESERVED

While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of Montana to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- cancel or terminate this RFP (Mont. Code Ann. § 18-4-307);
- reject any or all proposals received in response to this RFP (ARM 2.5.602);
- waive any undesirable, inconsequential, or inconsistent provisions of this RFP which would not have significant impact on any proposal (ARM 2.5.505);
- not award if it is in the best interest of the State not to proceed with contract execution (ARM 2.5.602); or
- if awarded, terminate any contract if the State determines adequate state funds are not available (Mont. Code Ann. § 18-4-313).

2.5 DEPARTMENT OF ADMINISTRATION POWERS AND DUTIES

The Department of Administration is responsible for carrying out the planning and program responsibilities for information technology (IT) for state government. (Mont. Code Ann. § 2-17-512.) The Chief Information Officer is the person appointed to carry out the duties and responsibilities of the Department of Administration relating to information technology. The Department of Administration shall:

- review the use of information technology resources for all state agencies;
- review and approve state agency specifications and procurement methods for the acquisition of information technology resources; and
- review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities.

2.6 COMPLIANCE WITH STATE OF MONTANA IT STANDARDS

The offeror is expected to be familiar with the State of Montana IT environment. All services and products provided as a result of this RFP must comply with all applicable State of Montana IT policies and standards in effect at the time the RFP is issued. The offeror must request exceptions to State IT policies and standards in accordance with Section 1.4 of this RFP. It will be the responsibility of the State to deny the exception request or to seek a policy or standards exception through the Department of Administration, Information Technology Services Division (ITSD). Offerors are expected to provide proposals that conform to State IT policies and standards. It is the intent of ITSD to utilize the existing policies and standards and not to routinely grant

exceptions. The State reserves the right to address non-material requests for exceptions with the highest scoring offeror during contract negotiation.

The links below will provide information on State of Montana IT strategic plans, current environment, policies, and standards.

State of Montana Information Technology Strategic Plan

<http://www.mt.gov/itsd/stratplan/statewideplan.asp>

State of Montana Information Technology Environment

<http://www.mt.gov/itsd/techmt/compenviron.asp>

State of Montana IT Policies

<http://itsd.mt.gov/policy/itpolicy.asp>

State of Montana Software Standards

<http://www.mt.gov/itsd/policy/software.asp>

SECTION 3: SCOPE OF PROJECT

NOTE: Each item must be thoroughly addressed. Offerors taking exception to any requirements listed in this section may be found non-responsive or be subject to point deductions.

3.0 PURPOSE

The State is seeking a contractor qualified to provide, host and maintain a web based platform from which the State, associated counties and jurisdictions will execute and manage fiscal activities licensed by the Food and Consumer Safety Section. The fiscal activities include but are not limited to accepting receipt of funds and matching this to a specific license, split the money between allocation funds, maintain the complete history of transactions and fiscal data and export data as needed to other State of Montana systems. These activities are integral to the inspection programs for Food Establishments, Public Accommodations, Swimming Pools, Tattoo and Body Piercing Establishments and other establishments. The selected web based platform will host and maintain the fiscal database for all licensed establishments. The system must provide the State the capability to query and develop reports for the entire state, county or jurisdiction. The local jurisdictions and counties will need access to their portion of the fiscal system to generate new licenses at the discretion of the State.

The selected system must work seamlessly with the Garrison browser based inspection program to determine which jurisdictions are eligible for payment based on the inspections of licensed establishment in their jurisdiction.

Glossary of Terms

ONE STOP:

Is a licensing system used by the Department of Revenue for the following types of Food Service Establishments:

- 02. Tavern or Bar
- 03. Meat Market (Onsite Retail Only)
- 04. Bakery (Onsite Retail Only)
- 05. N/A
- 06. Food Manufacturing (Onsite Retail Only)
- 07. Mobile Food Service
- 08. Water Hauler
- 09. Perishable Food Dealer (Retail Only)
- 10. Food Service/Catering (Retail Only)
- 11. Food Service/Delicatessen (Onsite Retail Only)
- 12. Produce (Onsite Retail Only)

It uses an ORACLE database.

Garrison Inspection Module:

Is a browser based inspection format where all of the inspection forms are available to the inspectors along with all of the historical data for all establishments licensed by the Food and Consumer Safety Section in the inspector's jurisdiction. The inspections are done electronically and using the internet stored in a database that the State of Montana has access to for reporting or other interface. The jurisdictions are then paid a percentage of the license fee for performing the inspection.

SABHRS:

Statewide Accounting, Budgeting and Human Resource System (SABHRS)

The Statewide Accounting, Budgeting and Human Resource System (SABHRS) is the state of Montana enterprise system for managing budget development, financial and human resource information.

SABHRS is used by all state agencies to account for and report the use and disposition of all public money and property in accordance with state law.

CAMA: Computer Assisted Mass Appraisal – database maintained by the Montana Department of Revenue with residential and commercial property tax information.

At the present time CAMA is an AS400 system using COBOL.

3.1 SYSTEM REQUIREMENTS

Responders must fully describe how their proposed products meet each of the requirements specified in each section and subsection below.

3.1.1 Must be browser-based product.

3.1.2 Must be a Commercial Off the Shelf System (COTS).

3.1.3 The proposed system must be available for demonstration for the purposes of evaluation under the RFP. Please indicate your preferred method for demonstration.

3.1.4 Must allow access, by State or authorized representatives, from any Windows-based PC via high-speed connection to the Internet without additional software.

3.1.5 Must allow future software upgrades and addition of other potential Food and Consumer Safety Section (FCSS) program area Licenses and provide upgrades at no additional cost during the term of the contract.

3.1.6 Must provide automatic notification of delinquency of payment for the license for the establishment at the time of inspection in the field, e.g., by pop-up.

3.1.7 Must provide flexibility to assign access rights by subject matter or locale, e.g., allow local health departments access to data from establishments under their authority; and to print their licenses for their jurisdiction.

3.1.8 Must allow ad hoc queries, including, but not limited to, to search by physical or mailing address, parcel number, facility name, district, phone number, and jurisdiction.

3.1.9 Must be able to import data from and export data to other databases to include, but not be limited to, SQL Server, Oracle, Excel, and Access database and ONE STOP.

3.1.10 Must provide a detailed audit trail of every transaction

- 3.1.11 Must provide integration between financial system and time tracking to allow for the automatic billing for re-inspections and other service-based items.
- 3.1.12 Must provide post-disaster full recovery of system functionality and data within 48 hours.
- 3.1.13 Must provide the ability to match a receipt to a license.
- 3.1.14 Must provide the ability to maintain a complete fiscal history.
- 3.1.15 Must provide the ability to generate renewal notices based on user identified parameters (examples: individually, for a license type, for a jurisdiction, for all)
- 3.1.16 Must provide the ability to generate late fees for a user identified set of licenses based on criteria specific to each license type.
- 3.1.17 Must provide the ability to make manual adjustments to license fees, receipts and late fees (with applicable access role).
- 3.1.18 Must provide the ability to match an individual receipt to multiple licenses.
- 3.1.19 Must maintain an activity history log.
- 3.1.20 Must maintain complete records of all financial transactions indefinitely. Any archiving or disposal of electronic records must be pre-approved by the State of Montana.
- 3.1.21 Must allow local printing of licenses by local jurisdiction
- 3.1.22 Must provide customized license formatting, including watermarks.
- 3.1.23 Must provide the ability to import inspection data from the Garrison inspection module to develop county invoices for payment to the county for inspections completed.
- 3.1.24 Must include the following fields and provide the ability to query by any one or combination of these fields: establishment name, physical address, county, and phone; owner name, mailing address, and phone; license type, license number; and date of licensure; approval status; payment amount, project, and fund; receipt date; check number; and delinquency status.
- 3.1.25 Describe the capability to export, in real time, data to Microsoft Office products, HTML, XHTML, XML, and PDF.
- 3.1.26 Must be able to process credit cards on the WEB
- 3.1.27 Must provide the ability to convert data to the new system from the existing FCSSL Oracle database.

3.2 CONTRACTOR RESPONSIBILITIES

Each item must be fully explained and addressed. The contractor must provide the following:

- 3.2.1 Full hosting, maintenance, and technical support.
- 3.2.2 Onsite training and guidance in Montana, online support, web-based support, and system support
- 3.2.3 Complete transfer of data and system to the Department in the event company discontinues service.
- 3.2.4 Complete transfer of data in the event of contract termination.
- 3.2.5 Other applicable features identified in the demonstration.

3.3 PREFERRED CAPABILITIES

Responders must fully describe how their proposed products meet each of the requirements specified in each section and subsection below.

- 3.3.1 Provide capacity to electronically report to other agency database formats, such as oracle, SQL, COBOL AS400 in either real time or as scheduled.
- 3.3.2 Allow geo-coding as described below:

Geocode is a unique 17 column alphanumeric code used to identify property within the Montana Department of Revenue CAMA system. A separate field will be needed for each of the seven segments of the geocode.

Sample geocode values

32-1227-26-4-01-01-0000

32 (01-56)

The first two digits represent the COUNTY location of the parcel. This two-digit code is the same scheme used on Montana automobile license plates.

1227 (0001-5097)

The next four digits represent the TOWNSHIP location of the parcel.

26 (01-36)

The next two digits represent the SECTION number of parcel.

4 (1-4)

The next one digit represents the QUARTER SECTION where the largest portion of the parcel is located (1=NE, 2=NW, 3=SW, 4=SE).

01 (01-99)

The next two digits represent the BLOCK number of parcel.

01 (01-99)

The next two digits represent the LOT number of parcel.

0000 The last four digits/characters represent the UNIT number of the parcel.

Unit numbers will be updated to the following coding convention:

9000-mobile home courts

8000-mobile homes on private land

7000-condominiums

6000-fractional interest properties

5000-townhouses

4000-improvements only

3000-oil field improvements only

2000-leased railroad right-of-way properties

0000-land & improvements/splits

SECTION 4: OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS

4.0 STATE'S RIGHT TO INVESTIGATE AND REJECT

The State may make such investigations as deemed necessary to determine the ability of the offeror to provide the supplies and/or perform the services specified. The State reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the State that the offeror is properly qualified to carry out the obligations of the contract. *This includes the State's ability to reject the proposal based on negative references.*

4.1 OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS

In order for the State to determine the capabilities of an offeror to provide the supplies and/or perform the services specified in Section 3 above, the offeror must respond to the following requests for information regarding its ability to meet the State's requirements. **THE RESPONSE "(OFFEROR'S NAME)" UNDERSTANDS AND WILL COMPLY IS NOT BE APPROPRIATE FOR THIS SECTION.**

(NOTE: Each item must be thoroughly addressed. Offerors taking exception to any requirements listed in this section may be found non-responsive or be subject to point deductions.)

4.1.1 References. Offeror shall provide a minimum of **three** references that are using the product specified in this RFP. The references may include state government or universities where the Offeror, preferably within the last three years, has successfully provided and installed the product proposed. At a minimum, the Offeror shall provide the company name, the location where the product was provided, contact person(s), customer's telephone number, e-mail address, and a complete description of the product, and dates the product was provided. These references may be contacted to verify Offeror's ability to perform the contract. The State reserves the right to use any information or additional references deemed necessary to establish the ability of the Offeror to perform the conditions of the contract. Negative references may be grounds for proposal disqualification.

4.1.2 Resumes/Company Profile and Experience. Offeror shall specify how long the individual/company submitting the proposal has been in the business of providing supplies and/or services similar to those requested in this RFP and under what company name. Offeror should provide a complete description of any relevant past projects, including the supply/service type and dates the supplies and/or services were provided. A resume or summary of qualifications, work experience, education, skills, etc., which emphasizes previous experience in this area should be provided for all key personnel who will be involved with any aspects of the contract.

4.1.2.1 Resume or summary of qualifications, work experience, education, skills, etc., which emphasizes previous experience implementing the proposed COTS product, should be provided for all key personnel who will be involved in any aspect of the contract including installation and implementation. These personnel must include the following:

Project Manager
Technical Analysts
Quality Assurance

4.1.3 Method of Providing Services. Offeror shall provide a work plan and the methods to be used that will convincingly demonstrate to the State what the Offeror intends to do, the timeframes necessary to accomplish the work, and how the work will be accomplished to meet the contract requirements as more specifically detailed above in Section 3.

SECTION 5: COST PROPOSAL

5.0 COST PROPOSAL

The cost for all required services must be indicated within this section in a firm, fixed cost price. This cost must include all development, hosting services, maintenance and support services, specified in Section 3 of this RFP. Must include a projected yearly maintenance cost.

SECTION 6: EVALUATION PROCESS

6.0 BASIS OF EVALUATION

The evaluator/evaluation committee will review and evaluate the offers according to the following criteria based on a **total number of 7700 points**.

The **Resumes/Company Profile and Experience, Scope of Project, and Method of Providing Services** portions of the offer will be evaluated based on the following Scoring Guide. The **Cost Proposal** will be evaluated based on the formula set forth below.

Any response that fails to achieve a passing score for Section 6 per the requirements of Section 2.3.5 will be eliminated from further consideration. A "fail" for any individual evaluation criteria may result in proposal disqualification at the discretion of the procurement officer.

SCORING GUIDE

In awarding points to the evaluation criteria, the evaluator/evaluation committee will consider the following guidelines:

Superior Response (95-100%): A superior response is a highly comprehensive, excellent reply that meets all of the requirements of the RFP. In addition, the response covers areas not originally addressed within the RFP and includes additional information and recommendations that would prove both valuable and beneficial to the agency.

Good Response (85-94%): A good response meets all the requirements of the RFP and demonstrates in a clear and concise manner a thorough knowledge and understanding of the project, with no deficiencies noted.

Fair Response (60-84%): A fair response minimally meets most requirements set forth in the RFP. The offeror demonstrates some ability to comply with guidelines and requirements of the project, but knowledge of the subject matter is limited.

Failed Response (0-59%): A failed response does not meet the requirements set forth in the RFP. The offeror has not demonstrated sufficient knowledge of the subject matter.

ANY RESPONSE THAT FAILS TO ACHIEVE A SCORE OF AT LEAST 70% IN SECTION 3 WILL BE ELIMINATED FROM CONSIDERATION.

6.1 EVALUATION CRITERIA

References		pass/fail
Category	Section of RFP	Point Value
A. References	4.1.1	Pass/fail

Resumes/Company Profile and Experience		20% of points for a possible 1540 points
Category	Section of RFP	Point Value
A. Company Profile and Experience	4.1.2	520
B. Past Projects	4.1.2	500
C. Staff Qualifications	4.1.2.1	520

Passing score for this section must be 924 or greater

Scope of Work		60% of points for a 4620 points
Category	Section of RFP	Point Value

3.1 System Requirements

A.	Must be browser-based product	3.1.1	150
B.	Commercial Off the Shelf System (COTS)	3.1.2	150
C.	Demonstration of system	3.1.3	pass/fail
D.	Access from any Windows-based PC	3.1.4	150
E.	Future upgrades and addition	3.1.5	150
F.	Notification of delinquency of payment	3.1.6	150
G.	Assignment of access rights	3.1.7	150
H.	Ad hoc queries	3.1.8	150
I.	Import and Export data	3.1.9	150
J.	Audit trail	3.1.10	125
K.	Integration with time tracking	3.1.11	85
L.	Post-disaster full recovery	3.1.12	150
M.	Match receipt to license	3.1.13	150
N.	Fiscal history	3.1.14	150
O.	Generate renewal notices	3.1.15	150

P.	Generate late fees	3.1.16	100
Q.	Manual adjustments	3.1.17	150
R.	Match receipt to multiple licenses	3.1.18	150
S.	Activity history log	3.1.19	150
T.	Perpetual retention of transaction records	3.1.20	150
U.	Allow local printing of licenses	3.1.21	100
V.	Customization of licenses	3.1.22	125
W.	Importation of inspection data from Garrison DHD	3.1.23	125
X.	Provided fields as specified	3.1.24	125
Y	Export to HTML, XHTML, XML, PDF	3.1.25	100
Z	Process credit cards	3.1.26	85
AA	Data Conversion	3.1.27	150

3.2 Contractor Responsibilities

A.	Full Hosting, Maintenance, Tech Support	3.2.1	150
B.	On-site training and guidance in Helena	3.2.2	150
C.	Data transfer in company discontinuation	3.2.3	150
D.	Data transfer due to contract termination	3.2.4	150
E	Other features in demonstration		200

3.3 Preferred Capabilities

A.	Report to database formats	3.3.1	100
B.	Geo-coding	3.3.2	100

Passing score for this section is 2772.

Any proposal which fails to achieve at least 2772 points will be disqualified from further consideration.

Cost Proposal		20% of points for a possible 1540 points	
Category		Section of RFP	Point Value
A.	Cost Proposal	5.0	1540

Lowest overall cost receives the maximum allotted points. All other proposals receive a percentage of the points available based on their cost relationship to the lowest. Example: Total possible points for cost is 30. Offeror A's cost is \$20,000. Offeror B's cost is \$30,000. Offeror A would receive 30 points, Offeror B would receive 20 points ($\$20,000/\$30,000 = 67\% \times 30 \text{ points} = 20$).

Lowest Responsive Offer Total Cost

_____ x Number of available points = Award Points

This Offeror's Total Cost

APPENDIX A: STANDARD TERMS AND CONDITIONS

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

AUTHORITY: The following bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids,

alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/procurement/preferences.asp>.

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain

the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://www.sos.state.mt.us>.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

UNAVAILABILITY OF FUNDING: The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313(4).)

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

Revised 7/05

APPENDIX B: FOOD AND CONSUMER SAFETY LICENSING SYSTEM CONTRACT

1. Parties
2. Effective Date, Duration, and Renewal
3. Services and/or Supplies
4. Consideration/Payment
5. Access and Retention of Records
6. Assignment, Transfer, and Subcontracting
7. Hold Harmless/Indemnification
8. Limitation of Liability
9. Required Insurance
10. Compliance with Workers' Compensation Act
11. Compliance with Laws
12. Intellectual Property/Ownership
13. Patent and Copyright Protection
14. Contract Performance Assurance
15. Contract Oversight
16. Contract Termination
17. Event of Breach – Remedies
18. Waiver of Breach
19. State Personnel
20. Contractor Personnel
21. Meetings and Reports
22. Contractor Performance Assessments
23. Transition Assistance
24. Choice of Law and Venue
25. Scope, Amendment and Interpretation
26. Execution

FOOD AND CONSUMER SAFETY LICENSING SYSTEM CONTRACT (CONTRACT NUMBER)

1. PARTIES

THIS CONTRACT, is entered into by and between the State of Montana, Department of Public Health and Human Services, Health and Safety Division, (hereinafter referred to as "the State"), whose address and phone number are 1400 Broadway Street, Room B102, Helena, MT 59620-2951, (406) 444-5309 and **(insert name of contractor)**, (hereinafter referred to as the "Contractor"), whose address and phone number are **(insert address)** and **(insert phone number)**.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. The contract term is for a period of approximately 12 months beginning approximately May 1, 2007 and ending April 30, 2008. This contract term will include approximately three to four months of installation and modifications and an eight -month warranty period. After the term of this contract, the State may enter into a maintenance and support agreement with the successful Offeror. The terms of any subsequent agreement will be negotiated at the expiration of any contract resulting from this RFP.

3. SERVICES AND/OR SUPPLIES

Contractor agrees to provide and maintain the browser based platform from which the State and associated counties will execute and manage the activities integral to the programs for Food Establishments, Public Accommodations, Swimming Pools, and Tattoo and Body Piercing Establishments.

4. CONSIDERATION/PAYMENT

4.1 Payment Schedule. In consideration for the products and services to be provided, the State shall pay according to the schedule specified in Section 14.2.

4.2 Withholding of Payment. The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

5. ACCESS AND RETENTION OF RECORDS

5.1 Access to Records. The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

5.2 Retention Period. The Contractor agrees to create and retain records supporting the products and services for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Contractor shall not assign, transfer, or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.) The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

7. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

8. LIMITATION OF LIABILITY

Except for damages caused by injury to persons or tangible property, or related to defending intellectual property provided under the contract, the Contractor's liability for contract damages is limited to direct damages.

9. REQUIRED INSURANCE

9.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

9.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

9.3 Specific Requirements for Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

9.4 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

9.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

9.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Purchasing Unit Department of Public Health and Human Services Room 8 Sanders Building 111 North Sanders Helena MT 59620. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

10. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the Purchasing Unit Department of Public Health and Human Services Room 8 Sanders Building 111 North Sanders Helena MT 59620, upon expiration.

11. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

12. INTELLECTUAL PROPERTY/OWNERSHIP

12.1 Mutual Use. All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Unless otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract including all deliverables and other materials, products, modifications developed or prepared for the State by Contractor under this contract or any program code, including site related program code, created, developed or prepared by Contractor under or in support of the performance of its obligations hereunder, including manuals, training materials and documentation (the "work product").

12.2 Title and Ownership Rights. The State shall retain title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio and video), text and the like provided by the State (the "content"), but grants Contractor the right to access and use content for the purpose of complying with its obligations under this contract and any applicable statement of work.

12.3 Ownership of Work Product. Contractor agrees to execute any documents or take any other actions as may reasonably be necessary, or as the State may reasonably request, to perfect the State's ownership of any work product.

12.4 Copy of Work Product. Contractor shall, at no cost to the State, deliver to the State, upon the State's request during the term or at the expiration or termination of all or part of Contractor's performance hereunder, a current copy of all work product in the form and on the media in use as of the date of the State's request, or as of such expiration or termination, as the case may be.

12.5 Ownership of Contractor Information. Techniques, sub-routines, algorithms and methods or rights thereto owned by Contractor at the time this contract is executed and employed by Contractor in connection with the services provided to the State (the "contractor information") shall be and remain the property of Contractor. The Contractor must provide full disclosure of any contractor information to the State prior to its use and prove its ownership. Contractor grants to the State a perpetual, irrevocable, royalty free, unrestricted right to use, modify, transfer and maintain the contractor information. Except as otherwise

provided for in Section 12.3 or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware provided by Contractor.

13. PATENT AND COPYRIGHT PROTECTION

13.1 Third Party Claim. In the event of any claim by any third party against the State that the products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

13.2 Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.

14. CONTRACT PERFORMANCE ASSURANCE

14.1 Milestone Payments. Payments to the Contractor will be based on completion and acceptance of each milestone defined below.

14.2 Payment Holdbacks. 20% will be withheld from each milestone payment. The total amount withheld will be paid to the contractor at the completion and acceptance of the final milestone.

Milestone/Deliverable	Hold Back	Payment % of Total
Milestone 1: Payment to vendor upon approval of overall project plan with mutually accepted timelines for project initiation, customization, training, and roll-out/implementation.	20% of approved invoice	30%
Milestone 2: Bringing test site on-line initially, making it accessible to Montana State and select local staff (i.e., stakeholders designated by the DPHHS Food & Consumer Safety Section) to assist in the customization process.	20% of approved invoice	35%
Milestone 3: Final project sign-off, by DPHHS Food and Consumer Safety Section, following full Statewide implementation and training, and acceptance of mutually satisfactory maintenance agreement between vendor and DPHHS.	20% of approved invoice	35%
Final Acceptance		100%

14.3 Contract Performance Security – All Forms Accepted.

The Contractor must provide contract performance security based upon 10% of the contract total.

The contract performance security must be provided by the Contractor in one of the following forms, within 10 working days from the Request for Documents Notice. ONLY THE FOLLOWING TYPES OF SECURITY ARE ACCEPTABLE AND MUST BE IN ORIGINAL FORM. FACSIMILE, ELECTRONIC, OR PHOTOCOPIES ARE NOT ACCEPTABLE.

- a sufficient bond from a surety company licensed in Montana with a Best's rating of no less than A- and supplied on the State of Montana's designated form found at <http://www.mt.gov/doa/gsd/procurement/forms.asp> and entitled "Contract Performance Bond"; or
- lawful money of the United States; or
- an irrevocable letter of credit from a single financial institution and supplied on the State of Montana's designated form found at <http://www.mt.gov/doa/gsd/procurement/forms.asp> and entitled "Irrevocable Letter of Credit"; or
- a cashier's check, certified check, bank money order, bank draft, certificate of deposit, or money market certificates drawn or issued by a federally or state-chartered bank or savings and loan association that is insured by or for which insurance is administered by the FDIC or that is drawn and issued by a credit union insured by the national credit union share insurance fund. Certificates of deposit or money market certificates will not be accepted as security for bid, proposal or contract security unless the certificates are assigned only to the State. All interest income from these certificates must accrue only to the contractor and not the State.
- personal or business checks are not acceptable.

See Title 18, chapter 4, part 3, MCA, Title 30, chapter 5, MCA, and ARM 2.5.502.

This contract performance security must remain in effect for the entire term of the contract. A new surety bond or irrevocable letter of credit must be issued to the State of Montana if this contract is renewed.

The contract performance security has been provided to the following address: Purchasing Unit Department of Public Health and Human Services Room 8 Sanders Building 111 North Sanders Helena MT 59620

15. CONTRACT OVERSIGHT

15.1 CIO Oversight. The Chief Information Officer (CIO) for the State of Montana, or designee, may perform contract oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur within the performance of contract obligations. The CIO may require the issuance of a right to assurance or the issuance of a stop work order.

15.2 Right to Assurance. If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this contract, the State may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the State's option, be the basis for terminating the contract under the terms and conditions or other rights and remedies available by law or provided by the contract.

15.3 Stop Work Order. The State may, at any time, by written order to the Contractor, require the Contractor to stop any or all parts of the work required by this contract for the period of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. If a stop work order issued under this clause is canceled or the

period of the order or any extension expires, the Contractor shall resume work. The State Project Manager shall make the necessary adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

16. CONTRACT TERMINATION

16.1 Termination for Cause. The State may, by written notice to the Contractor, terminate this contract in whole or in part at any time the Contractor fails to perform the contract pursuant to Section 17, Event of Breach – Remedies.

16.2 Bankruptcy or Receivership. Voluntary or involuntary Bankruptcy or receivership by Contractor may be cause for termination.

16.3 Non-Compliance with Department of Administration Requirements. The Department of Administration pursuant to section 2-17-514, MCA, retains the right to cancel or modify any contract, project or activity that is not in compliance with the Department's Plan for Information Technology, the State Strategic Plan for Information Technology, or any Statewide IT policy or standard in effect as of the date of contract signing.

16.4 Reduction of Funding. The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313(4)).

17. EVENT OF BREACH – REMEDIES

17.1 Event of Breach. Any one or more of the following acts or omissions of the Contractor shall constitute an event of breach:

- a. products or services furnished by the Contractor fail to conform to any requirement of the contract; or
- b. failure to submit any report required hereunder; or
- c. failure to perform any of the other covenants and conditions of the contract, including beginning work under this contract without prior Department of Administration approval.

17.2 State's Actions in Event of Breach. Upon the occurrence of any event of breach, the State may take any one, or more, or all, of the following actions:

- a. give the Contractor a written notice specifying the event of breach and requiring it to be remedied within, in the absence of a greater or lesser specification of time, 30 days from the date of the notice; and if the event of breach is not timely remedied, terminate this contract upon giving the Contractor notice of termination;
- b. give the Contractor a written notice specifying the event of breach and suspending all payments to be made under this contract and ordering that the portion of the contract price, which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the event of breach, shall never be paid to the Contractor;
- c. set off against any other obligation the State may owe to the Contractor any damages the State suffers by reason of any event of breach; or

- d. treat the contract as materially breached and pursue any of its remedies at law or in equity, or both.

18. WAIVER OF BREACH

No failure by the State to enforce any provisions hereof after any event of breach shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any event of breach shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other breach on the part of the Contractor.

19. STATE PERSONNEL

19.1 State Contract Manager. The State Contract Manager identified below is the State's single point of contact and will perform all contract management pursuant to section 2-17-512, MCA, on behalf of the State. Written notices, requests, complaints or any other issues regarding the contract should be directed to the State Contract Manager.

The State Contract Manager for this contract is:

Janet Stetzer:
1400 Broadway Street, RM C214
PO Box 202951
Helena, MT 59620-2951
Telephone # 406-444-5309
Fax #406-444-4135
(E-mail): jstetzer@mt.gov

19.2 State Project Manager. The State Project Manager identified below will manage the day-to-day project activities on behalf of the State.

The State Project Manager for this contract is:

Deen L. Pomeroy
1400 Broadway Street, RM C214
PO Box 202951
Helena, MT 59620-2951
Telephone # 406-444-2989
Fax #406-444-4135
(E-mail): Dpomeroy@mt.gov@mt.gov

20. CONTRACTOR PERSONNEL

20.1 Identification/Substitution of Personnel. The personnel identified or described in the Contractor's proposal shall perform the services provided for the State under this contract. Contractor agrees that any personnel substituted during the term of the contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. The State reserves the right to approve Contractor personnel assigned to work under the contract, and any changes or substitutions to such personnel. The State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve the Contractor to perform and be responsible for its obligations under this Contract. The State reserves the right to require Contractor personnel replacement. In the event that

Contractor personnel become unavailable, it will be the Contractor's responsibility to provide an equally qualified replacement in time to avoid delays to the work plan.

20.2 Contractor Contract Manager. The Contractor Contract Manager identified below will be the single point of contact to the State Contract Manager and will assume responsibility for the coordination of all contract issues under this contract. The Contractor Contract Manager will meet with the State Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The Contractor Contract Manager for this contract is TBD:

(Name):
(Address):
(City, State, ZIP):
(Telephone #):
(Cell Phone #):
(Fax #):
(E-mail):

20.3 Contractor Project Manager. The Contractor Project Manager identified below will manage the day-to-day project activities on behalf of the Contractor:

The Contractor Project Manager for this contract is TBD:

(Name):
(Address):
(City, State, ZIP):
(Telephone #):
(Cell Phone #):
(Fax #):
(E-mail):

21. MEETINGS AND REPORTS

21.1 Technical or Contractual Problems. The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. Failure to participate in problem resolution meetings or failure to make a good faith effort to resolve problems may result in termination of the contract.

21.2 Progress Meetings. During the term of the contract, the State's Project Manager will plan and schedule progress meetings with the Contractor to discuss the progress made by the Contractor and the State in the performance of their respective obligations. These progress meetings will include the State Project Manager, the Contractor Project Manager, and any other additional personnel involved in the performance of the contract as required. At each such meeting, the Contractor shall provide the State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may

include the failure or inadequacy of the State to perform its obligation under the contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.

21.3 Failure to Notify. In the event Contractor fails to specify in writing any problem or circumstance with respect to the period during the term covered by Contractor's status report, it shall be conclusively presumed for purposes of this contract that no such problem or circumstance arose during such period, and Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for either claiming it is entitled to receive any amount (including without limitation damages or additional charges arising out of a breach by the State of any State obligation) with respect to any of Contractor's obligations hereunder in excess of those previously agreed to; or failing to complete any of Contractor's obligations hereunder. Submission by Contractor of the status reports shall not alter, amend or modify Contractor's or the State's rights or obligations pursuant to any provision of this Contract.

21.4 State's Failure or Delay. For a problem or circumstance identified in the Contractor's status report in which Contractor claims was the result of the State's failure or delay in discharging any State obligation, the State shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If the State agrees as to the cause of such problem or circumstance, then the Parties shall extend any deadlines or due dates affected thereby, and provide for any additional charges by Contractor. If the State does not agree as to the cause of such problem or circumstance, the Parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both Parties.

22. CONTRACTOR PERFORMANCE ASSESSMENTS

22.1 Assessments. The State may do assessments of the Contractor's performance. Contractors will have an opportunity to respond to assessments, and independent verification of the assessment may be utilized in the case of disagreement.

22.2 Record. Completed assessments may be kept on record at ITSD and may serve as past performance data. Past performance data will be available to assist agencies in the selection of IT service providers for future projects. Past performance data may also be utilized in future procurement efforts.

23. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

24. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

25. SCOPE, AMENDMENT AND INTERPRETATION

25.1 Contract. This contract consists of **(insert number)** numbered pages, any Attachments as required, RFP #07-1236L, as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

25.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

26. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**Department of Public Health
and Human Services**
(Insert Address)
(Insert City, State, Zip)

(INSERT CONTRACTOR'S NAME)
(Insert Address)
(Insert City, State, Zip)

BY: _____
(Name/Title)

BY: _____
(Name/Title)

BY: _____
(Signature)

BY: _____
(Signature)

DATE: _____

DATE: _____

Approved as to Legal Content:

Legal Counsel (Date)
Agency: _____

Approved as to Form:

Procurement Officer (Date)
Agency: _____

Chief Information Officer Approval:

The Contractor is notified that pursuant to section 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

Chief Information Officer (Date)
Department of Administration